



**Australian
Competition &
Consumer
Commission**

Our Ref: C2008/1626
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5 February 2009

Mr Charles Massy
Associate
Hall Payne Lawyers
GPO Box 3114
Brisbane QLD 4001

Via email: charlesm@hallpayne.com.au

Dear Mr Massy

Application for authorisation A91103 lodged by CFMEU Qld - draft determination

The Australian Competition and Consumer Commission (the ACCC) has issued a draft determination in respect of the application for authorisation lodged by Construction, Forestry, Mining & Energy, Industrial Union of Employees, Queensland (CFMEU Qld) on 6 October 2008.

Draft determination

A copy of the ACCC's draft determination is attached, including a summary of its reasons.

For the reasons set out in its draft determination, the ACCC proposes to grant authorisation, for a period of five years, to application A91103 on condition that:

- CFMEU Qld will, on an annual basis, provide the ACCC with:
 - the number of current participating owner drivers
 - details of any collective bargaining group including the group's current membership
 - the identity of any targets approached by a collective bargaining group which are not identified in Attachment A to the draft determination.

Next steps

CFMEU Qld or any interested party may request that the ACCC convene a 'pre-decision conference'. A pre-decision conference is a public meeting which provides the opportunity for all interested parties to make oral submissions in relation to the draft determination. Conferences are conducted informally and while legal or professional advisers are able to attend they are not entitled to participate in the discussion.

If you wish the ACCC to hold a pre-decision conference in relation to the draft determination, you must notify the ACCC in writing by **19 February 2009**. If a pre-decision conference is called, it will be held in Brisbane in the week commencing 23 February 2009. Further details will be provided should a pre-decision conference be requested.

You are invited to make a written submission in response to the ACCC's draft determination. You will also have the opportunity to respond to any issues raised in the public consultation process. Your submission should be lodged by **6 March 2009**.

The ACCC's ability to take into account submissions provided after this date may be limited because under section 90(10) of the *Trade Practices Act 1974*, the ACCC must determine an application for authorisation within 6 months of receiving an application otherwise the ACCC is deemed to have granted the authorisation.

Submissions from interested parties should be lodged by 20 February 2009 and copies of all public submissions will be provided to you.

The ACCC will consider any submissions it receives, including any oral submissions made should a pre-decision conference be called, and will then release a final determination in relation to the CFMEU Qld's application.

Submissions will be placed on the ACCC's public register subject to any request for exclusion (guidelines are attached).

Timetable

The ACCC will continue to progress its assessment of the application in a timely manner. An updated indicative timetable is attached for your information.

This letter has been placed on the ACCC's public register. If you wish to discuss any aspect of this matter please do not hesitate to contact Sharon Clancy on (02) 6243 1217.

Yours sincerely



Dr Richard Chadwick
General Manager
Adjudication Branch

Indicative timetable

6 October 2008	Lodgement of application and supporting submission.
14 October 2008	Public consultation process begins.
31 October 2008	Closing date for submissions from interested parties
14 November 2008	Request from the applicant for an extension to the deadline for providing a response to the issues raised in the public consultation process
15 January 2009	Request from the applicant for a further extension to the deadline for providing a response to the issues raised in the public consultation process
27 January 2009	Applicant responds to the issues raised in the public consultation process
5 February 2009	Draft determination.
19 February 2009	Deadline for calling a pre-decision conference
20 February 2009	Closing date for submissions from interested parties
Week commencing 23 February 2009	Pre-decision conference (if called)
6 March 2009	Closing date for submissions from applicant in response to the issues raised in the public consultation process
March / April 2009	Final determination.

APPLICATION FOR AUTHORISATION A91103 FROM THE CFMEU Qld

INTERESTED PARTIES – DRAFT DETERMINATION

In addition to the interested parties listed below, the ACCC also invited submissions from the participating owner drivers

APA Tippers Pty Ltd

Australian Construction Industry Forum

Australian Government Department of Education, Employment and Workplace Relations

Australian Government Department of Innovation, Industry, Science and Research

Australian Government Office of the Australian Building and Construction Commissioner

Australian Government Workplace Ombudsman

Australian Industry Group

Boral Australian Construction Materials

Bulk Granite Haulage Pty Ltd

Byrnes Earthmoving Pty Ltd

Civil Contractors Federation

Coast 2 Coast Earthmoving Pty Ltd

Coastal Tipper Hire Pty Ltd

Commerce Queensland

D&M Plant Hire Pty Ltd

Demolishers, Recyclers and Asbestos Contractors Association QLD

Greenies Tippers Pty Ltd

Housing Industry Association

Independent Contractors of Australia

Lantrak Pty Ltd

Master Builders Queensland

North Brisbane Truck Hire

Owner Drivers Australia

Peter Munns Holdings Pty Ltd

Queensland Government Department of Tourism, Regional Development and Industry

Queensland Major Contractors Association

Queensland Trucking Association Ltd

Rockin' Haulage Pty Ltd

Thiess Pty Ltd

Timms Haulage

Tims Holdings Pty Ltd

Transport Workers Union Australia